

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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MERRILL STEINBERG, Individually, and On	:	
Behalf of All Others Similarly Situated,	:	
	:	Electronically Filed
Plaintiff,	:	
	:	Civil Action No.: 1:07-cv-09615-RPP
v.	:	(ECF Case)
	:	
ERICSSON LM TELEPHONE CO., CARL-	:	Hon. Robert P. Patterson
HENRIK SVANBERG and KARL-HENRIK	:	
SUNDSTROM,	:	
	:	
Defendants.	:	
-----X		
<i>(Additional Captions on the Following Page)</i>		

**MOTION TO STRIKE THE REPLY BRIEF OF JACQUES FURHER**

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STATE-BOSTON RETIREMENT SYSTEM,	:	
Individually, and On Behalf of All Others	:	
Similarly Situated,	:	Electronically Filed
	:	
Plaintiff,	:	Civil Action No.: 1:07-cv-10659-RPP
	:	(ECF Case)
v.	:	
	:	Hon. Robert P. Patterson
ERICSSON LM TELEPHONE CO., CARL-	:	
HENRIK SVANBERG and KARL-HENRIK	:	
SUNDSTROM,	:	
	:	
Defendants.	:	
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CITY OF EDINBURGH COUNCIL ON	:	
BEHALF OF THE LOTHIAN PENSION	:	
FUND, FORTIS INVESTMENT	:	Electronically Filed
MANAGEMENT N.V./S.A., and DEKA	:	
INVESTMENT GmbH, Individually, and On	:	Civil Action No.: 1:07-cv-11617-RPP
Behalf of All Others Similarly Situated,	:	(ECF Case)
	:	
Plaintiff,	:	Hon. Robert P. Patterson
	:	
v.	:	
	:	
ERICSSON LM TELEPHONE CO., CARL-	:	
HENRIK SVANBERG and KARL-HENRIK	:	
SUNDSTROM,	:	
	:	
Defendants.	:	
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The City of Edinburgh Council on behalf of the Lothian Pension Fund (“Lothian”), Fortis Investment Management N.V./S.A. (“Fortis Investments”), Deka Investment GmbH (“Deka”), and State-Boston Retirement System (“Boston”) (collectively, the “Ericsson Institutional Investor Group”), move to strike the reply brief filed by Jacques Furher (“Furher”).

Pursuant to Rule 6 of the Federal Rules of Civil Procedure and Local Civil Rules 6.1 and 6.4 of the U.S. District Court for the Southern District of New York, the lead plaintiff movants in this case were required to file reply briefs no later than January 28, 2008. Since opposition briefs were due on January 17, 2008 (as acknowledged by Furher’s filing on that date), reply briefs were due to be filed five business days plus three calendar days later, which was January 28. *See* Local Civil Rule 6.1; F.R.C.P. Rule 6(e). Furher filed his reply brief on January 30, 2008, two days past the deadline. Furher’s reply is not only late, it is functionally an impermissible sur-reply because the Institutional Investor Group filed its reply on time. Because Furher’s reply brief was not timely filed, it should be stricken.

However, new information contained in Furher’s untimely brief reveals that Furher’s attack on the Ericsson Institutional Investor Group as an impermissible group as spurious and disingenuous, in addition to being wrong on the law and facts. In response to the Ericsson Institutional Investor Group’s argument that Furher did not cite the Oracle securities litigation he claimed to be overseeing, Furher attached an order appointing Drifton Finance Corp. (“Drifton”). Furher is President of Drifton, which moved for appointment as lead plaintiff as part of a group of **four unrelated entities**. *See Local 144 Nursing Home Pension Fund v. Oracle Corp.*, No. 01-cv-988 MJJ, slip op. at 1-2 (N.D. Cal. June 19, 2001) (attached to Furher Reply, Ex. B).

In Oracle, Drifton, through Furher, moved for lead plaintiff along with the UCFW Local 56 Retail Meat Pension Fund, Robert D. Sawyer, and Local 144 Nursing Home Pension Fund.

Unlike the showing made by the Ericsson Institutional Investor Group here, the group appointed in Oracle submitted no evidence of why the group was formed, whether the members had spoken prior to the motion, or made any of the showings Furher claims now are prerequisites for the appointment of a group as lead plaintiff.

Moreover, even though Furher, in his reply, claims that he is not seeking a recovery for forced-purchase transactions, this does not change the fact that he is inadequate and atypical. The issue of the amount of his loss is separate from that of his adequacy. He cannot salvage the latter by sacrificing part of the former.

For the reasons stated herein, the Ericsson Institutional Investor Group respectfully moves the Court to strike Furher's reply brief.

Dated: January 31, 2008

Respectfully submitted,

**LABATON SUCHAROW LLP**

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